

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DANA-FARBER CANCER INSTITUTE, INC.,

Plaintiff,

v.

GATEKEEPER PHARMACEUTICALS, INC.,

Defendant.

Civil Action No. 1:10-CV-11613

GATEKEEPER PHARMACEUTICALS, INC., a
Delaware corporation,

Counterclaimant and Third-Party
Plaintiff,

v.

DANA- FARBER CANCER INSTITUTE, INC.,
a Massachusetts corporation,

Counter-Defendant,

- and -

NOVARTIS PHARMA, A.G., a Swiss
corporation; NOVARTIS INTERNATIONAL
PHARMACEUTICAL, LTD., a Bermuda
corporation; and NOVARTIS INSTITUTES FOR
BIOMEDICAL RESEARCH, INC., a Delaware
corporation,

Third-Party Defendants.

**MOTION FOR SUMMARY JUDGMENT OF NOVARTIS PHARMA, A.G., NOVARTIS
INTERNATIONAL PHARMCEUTICAL, LTD., AND NOVARTIS INSTITUTES FOR
BIOMEDICAL RESEARCH, INC.**

Third-Party Defendants Novartis Pharma AG, Novartis International Pharmaceutical,
Ltd., and Novartis Institutes for Biomedical Research, Inc. (“Novartis”) respectfully move,

pursuant to Fed. R. Civ. P. 56, for summary judgment on Gatekeeper Pharmaceutical Inc.'s claim for intentional interference with contractual relations, Count III of Gatekeeper's Amended Counterclaims and Crossclaims (Dkt. 47). Summary judgment is warranted on the grounds that:

- (1) Novartis was entitled to license the intellectual property at issue pursuant to the terms of a Collaborative Research Agreement (CRA) between Novartis and the Dana-Farber Cancer Institute;
- (2) Gatekeeper was not entitled to an option to license the intellectual property at issue given conflict provisions in the CRA and related consulting agreements with the inventors; and
- (3) Novartis was also entitled to license the intellectual property pursuant to a materials transfer agreement with one of the named inventors.

The bases for Novartis' motion are set forth in more detail in the accompanying Memorandum of Law and Statement of Undisputed Material Facts, which are filed with the Court under seal.

WHEREFORE, Novartis respectfully request this Court:

1. Grant Novartis' Motion for Summary Judgment on Count III of Gatekeeper's Amended Counterclaims and Crossclaims; and
2. Grant such further relief as the Court deems proper.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), Plaintiffs request a hearing on this Motion for Summary Judgment.

Respectfully Submitted,

Dated: December 1, 2011

NOVARTIS PHARMA, A.G.; NOVARTIS
INTERNATIONAL PHARMACEUTICAL LTD.,
and NOVARTIS INSTITUTES FOR
BIOMEDICAL RESEARCH, INC.

By its attorneys,

/s/ Lisa J. Pirozzolo

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**CERTIFICATION OF COMPLIANCE WITH FEDERAL RULE OF CIVIL
PROCEDURE 26(c)(1)**

I certify that Novartis's counsel has conferred in good faith with opposing counsel on the matter set forth herein.

/s/ Lisa J. Pirozzolo
Lisa J. Pirozzolo

CERTIFICATE OF SERVICE

I certify that, on December 1, 2011, this document (filed through the ECF system) will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Lindsay M. Manning
Lindsay M. Manning